

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF MEETING
NOVEMBER 6, 2007**

CALL TO ORDER The regular meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Committee members present were Tony Sagami, Gina Klempel, and Craig Wagner. Scott Hollinger and Mark Hash had excused absences. Alex Hogle, Eric Giles, and Jeff Harris represented the Flathead County Planning & Zoning Office (FCPZ).

There were approximately 9 people in the audience.

APPROVAL OF MINUTES Wagner made a motion, seconded by Klempel, to approve the October 6, 2007 meeting minutes.

The motion was carried by quorum.

ALLTEL WIRELESS (FCU 07-14) A request by Denise Cardinal, on behalf of Alltel Wireless, for a Conditional Use Permit to construct a telecommunication facility within an R-1 (Suburban Residential) Zoning District. The proposed site is located at 1065 Ashley Drive and can further be described as Tract 11DB in Section 18, Township 28 North, Range 21 West, P.M.M. Flathead County, Montana.

STAFF REPORT Alex Hogle, of the Flathead County Planning & Zoning Office, reviewed Staff Report FCU 07-14 for the Board.

BOARD QUESTIONS Wagner asked if anybody discussed disguising the tower.

Hogle said there has been no discussion of disguising the tower. The applicant has proposed to comply with any conditions that come out of the approval for the conditional use permit. The applicant plans on painting the poles sky blue to blend in with the sky.

Sagami asked how close the nearest residents are.

Hogle said approximately 100-200 yards from the pole.

Sagami asked what agency would issue the floodplain permit.

Hogle said it would be issued through the floodplain administrator.

Sagami asked if it would receive a floodplain permit.

Hogle said some developments are allowed in the floodway fringe and allow for various types of construction. The limitations would be determined when a certificate of elevation is submitted. The facility would have to be built two feet above the base flood elevation. He said the fill can not be impermeable.

Harris said he is the floodplain administrator and there is no sense in moving forward on a floodplain permit if the conditional use permit isn't approved.

Sagami asked if Staff had any opinion on the health hazards.

Hogle said it is not regulated.

Sagami asked if the owner of the property resides on the property.

Hogle didn't know, but thought he spent some time there. He said there is no development on the property.

Klempel said there is generally something from the FCC submitted to the Board.

Hogle said there has been no direct communication from the FCC, but the application had some information submitted from the FCA.

APPLICANT

Denise Cardinal, of Alltel, handed out pictures to the Board of what the mono pole would look like. Alltel is prepared to meet all conditions of approval and is in the process of filling out the floodplain permit.

Sagami asked who the owner of the property is.

Cardinal said the owner is present.

Wagner asked if there are other companies planning on adding a raise on the pole.

Cardinal said if other companies wanted to locate on the tower they would come before the Board and approve it. She said there may be a two to three inch extension. Sagami asked if there was any communication with the

neighbors.

Cardinal didn't know until tonight there was any public comment.

**PUBLIC
COMMENT**

Roxanne Tunison, 45 Ashley Creek Lane, said she would be directly affected by the tower. She would have to stare at the tower and it would obstruct their views. A lot of residents found out today about the pole. She read the email that was written to the Board and feels very strongly against the cell tower. The tower would adversely affect all of the neighbors. She is also concerned about health issues.

Jana Wisher, 33 Ashley Lane and 57 Ashley Lane, owns two pieces of property directly facing the proposed tower. She understands that Alltel has a business and they have done their homework and are trying to follow the rules. She said there will be the tower, big wires, fences and concrete. Alltel has alternative sites that could be placed outside of the residential valley area. The west side of town is becoming more and more upgrade residential. If there is a question about the health issues the Board needs to look at the concerns.

John Wisher, said they were contacted by a neighbor about the pole, not through Staff. Alltel has "crossed their T's and dotted their I's" but other towers are in business sections of towns, not residential areas. He said the Board is setting a precedent for the future.

Mark Adkins, lives adjacent to the proposed tower. He owns three parcels. He was contacted by Alltel to rent his land to them. He told them he was in the 100-year floodplain. He is opposed to the tower because it will take away from his property value. The tower should not be land base colored because an airplane can't see it, but if it's white it takes more value away from the land. He asked why cell phone towers aren't on aviation maps.

David Downey, 1125 Sunnyside Drive, didn't hear about the tower through Staff, he heard about it through the grapevine. He didn't have anything different to say than what has been said previously. The community has remained rural and it is really nice to be able to see the mountains. Health factors are a controversial thing. He wouldn't live under a power line and doesn't want to live

that close to a cell phone tower. The concrete pad and fence are eyesores also. He asked if the tower for was just for Alltel customers or for all cell phone companies.

Scott Carlson, 347 Orchard Ridge, can't see the tower from where he lives. He challenges everyone in the room that doesn't have a cell phone to use regularly. The government relies on cell phones. It's an unfortunate thing that the towers aren't attractive, but that's how cell phones work. He lives in a fairly nice development but has neighbors that do what he doesn't like, but he lives with it. He is very familiar with property rights. There is a proposed bypass within several hundred yards of where the tower would be and is sure the neighbors don't want that either. There aren't really any houses within distance of the tower so if it fell over it would touch anything. Most of the buildings are several hundred yards away from any residents. Cell phone technology can not work with just one tower.

John Tinasan, 45 Ashley Creek Lane, owns property in Orchard Ridge. If a cell phone tower was proposed in one of the previous speakers' neighborhood, he would have a different views than he does now. He wanted to know how much cell phone connection is possible with the tower. If he would have known the tower was going to be built he wouldn't have bought his land last year.

Nicole Ostrom feels they are not trying to go against progression and communications. She doesn't know the level of interference done on body and minds and it is not fair to her children. She doesn't own a cell phone and people shouldn't be talking on cell phones and driving. The cell phone tower is going to do more damage than good.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

Cardinal said there was a question about the aviation maps and doesn't know whose responsibility it is to put cell phone towers on the maps. As long as land owners are complying with regulations, they should be able to do with what they want with their property. She said the FCC sets the standards form and EMF limits and studies have been done. Nothing has been concluded about health issues with cell phone towers. The original location of the proposed tower was in a heavily residential area and Alltel decided to move it west so they could be away from the

heavy residential area. She said the radio frequency engineers determine where the sites are located. She said the tower will be self supporting. She said if you don't own the property you shouldn't be able to control it.

Wagner asked if Alltel has explored any other sites.

Cardinal said it has to be within a 3 block area.

Sagami said the compensation of the owner is no ones business.

Hogle said there is technical commentary provided in the application and it describes the process of offloading from the existing tower.

Cardinal said once the construction is completed, there will be a cell technician that comes every 4 to 6 weeks to make sure everything is in order.

BOARD DISCUSSION

Wagner said there is quite a concern about the view-shed.

Klempel doesn't see why they can't design the tower to look like a giant pine tree.

Cardinal said a pine tree wouldn't blend in.

Klempel said a pine tree would look better than a pole.

Wagner asked about flyway safety because the site is near the city airport.

Adkins said when you enter an airport you enter at a 45 degree angle and the pole is right in the way.

Hogle said there was no objection from the FAA. He read part of the FAA's letter to the Board.

Sagami said he was in favor of a 150-unit housing project that obstructed his view of the lake. Cell phone towers aren't more dangerous than power poles or telephone poles.

MOTION TO APPROVE

Sagami made a motion seconded by Wagner to approve FCU 07-14.

**ROLL CALL
APPROVE**

On a roll call vote the motion passed unanimously.

**HADLEY
(FCU-07-13)**

A request by Paul and Deborah Biolo and Brian Lauterbach, for a Conditional Use Permit for expansion of a non-conforming use in the Blanchard Lake, AG-20 (Agricultural), Zoning District. The property is located at 1985 Hodgson Road and can legally be described as Tract 2FB in Section 25, Township 30 North, Range 22 West, P.M.M. Flathead County, Montana.

STAFF REPORT

George Smith, of the Flathead County Planning & Zoning Office, reviewed Staff Report FCU-07-13 for the Board.

**BOARD
QUESTIONS**

None.

APPLICANT

Deborah Biolo said they have been selling cars on the property since 1996 and there is no new construction, buildings, or paving. They are more than happy to comply with conditions. They did U-haul rentals for several years and thought rentals would be part of the commercial non-conforming use. Once they found out they were in violation they immediately applied for a CUP. She said the parking striping for Enterprise would be acceptable but Midway Motors moves their cars around and doesn't think it would work for them to stripe their car lot. Enterprise has one employee that comes and goes. She said additional employees on the septic system are two at the most.

**PUBLIC
COMMENT**

None.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

None.

**BOARD
DISCUSSION**

The Board discussed the striping of the parking lot.

**MOTION TO
APPROVE**

Wagner made a motion seconded by Klempel to approve FCU-07-13.

ROLL CALL

On a roll call vote the motion passed unanimously.

**OLD
BUSINESS**

None.

**NEW
BUSINESS**

None.

ADJOURNMENT

The meeting was adjourned at approximately 7:45 on a motion by Wagner seconded by Klempel. The next meeting will be held at 6:00 p.m. on December 4, 2007.

Scott Hollinger, Chairperson

Kayla Kile, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 5/6/08